

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

MARCOS ACOSTA-AVRENDONDO,

Defendant.

CASE NO. 8:10CR8

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) and the Defendant’s objection thereto (Filing No. 28). The government adopted the PSR (Filing No. 27). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the prior conviction set out in ¶ 35. However, the Court notes that apparently the objection was not made initially as required under ¶ 4 of the Order on Sentencing Schedule. The Court advises defense counsel that it is counsel's burden to seek out supporting records from the probation officer. If this objection is not withdrawn, it will be heard at sentencing.

IT IS ORDERED:

1. The Defendant's objection (Filing No. 28) to the PSR will be heard at sentencing, unless it is withdrawn;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the

submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 20th day of June, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge